

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 210

(Chair, Budget and Taxation Committee)(By Request -
 Departmental - Transportation)

Budget and Taxation

Ways and Means

Tax Credits - Employer-Provided Commuter Benefits - Expansion and Administration

This departmental bill expands the existing commuter benefit income tax credit by extending eligibility to certain employer-funded programs for (1) carpools; (2) walking and biking to work; (3) teleworking; and (4) multimodal commuting. The Maryland Department of Transportation (MDOT) must administer the credit and may award a maximum of \$1.0 million in credits each year. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: General fund revenues may decrease by about \$400,000 annually beginning in FY 2023 as a result of additional tax credits claimed against the corporate and personal income tax. The FY 2023 general fund revenue loss is assumed to be accounted for by the \$350.0 million in tax relief assumed in the FY 2023 budget. Transportation Trust Fund (TTF) and Higher Education Investment Fund (HEIF) revenues decrease beginning in FY 2023 as a result of additional credits claimed against the corporate income tax. TTF expenditures decrease beginning in FY 2023 due to a reduction in corporate income tax revenues.

| (in dollars) | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|--------------|-------------|-------------|-------------|-------------|-------------|
| GF Revenue | (\$400,000) | (\$400,000) | (\$400,000) | (\$400,000) | (\$400,000) |
| Expenditure | 0 | 0 | 0 | 0 | 0 |
| Net Effect | (\$400,000) | (\$400,000) | (\$400,000) | (\$400,000) | (\$400,000) |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local highway user revenues decrease beginning in FY 2023 as a result of credits claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: MDOT has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill extends eligible commuting benefits to include the amount paid by an employer on a regular basis for:

- ***Walking and Biking:*** Bicycle or electronic bicycle maintenance, shared bicycle and scooter memberships, and certain bicycling and walking gear;
- ***Carpool:*** The costs of normally operating an eligible privately owned or employer-owned vehicle, including E-ZPass and other toll fees and parking fees but not including the cost of maintaining or purchasing the vehicle;
- ***Telework:*** The prorated costs of Internet, computer equipment, telephone equipment, and certain software and supplies as well as membership costs for co-working space and telework centers; and
- ***Multimodal Transportation:*** A combination of subsidies, payments, or reimbursements for teleworking, carpooling, or any commuter benefits that qualify under current law.

The worker must reside or work in the State, and the transportation or teleworking must take place on a weekday between the hours of 5:00 a.m. and 7:00 p.m. For an employer-funded carpool program, at least two people must travel together for more than 80% of the trip, and each employee must be registered with the Commuter Connections Program.

MDOT must award credits on a first-come, first-served basis and adopt regulations establishing the tax credit application process.

Current Law: Maryland-based businesses that provide commuter benefits for employees may claim a tax credit for a portion of the amounts paid during the taxable year. The tax credit is 50% of the cost of providing the commuter benefits up to a maximum of \$100 per month (based on a \$200 employer contribution) for each employee. The amount of the tax credit may not exceed the tax liability imposed in the year, and any unused amount of the credit may not be carried forward to any other tax year.

The employer must pay a portion of the cost of an employee's travel between the employee's home and workplace which must be located in Maryland.

Eligible commuter benefits include employer-funded or subsidized (1) publicly or privately owned mass transit travel; (2) vanpool programs; (3) cash-in-lieu of parking programs; and (4) guaranteed ride home programs. The cash-in-lieu of parking program or guaranteed ride home program must be provided to an individual who works or resides in the State.

Background: The Comptroller's Office advises that in fiscal 2019, 58 businesses claimed a total of \$595,300 in commuter benefit income tax credits. In fiscal 2020, 74 businesses claimed tax credits totaling \$655,600. This tax credit activity does not reflect the impacts of the COVID-19 pandemic, including the shift away from traditional working and commuting behaviors to hybrid working, remote working, and other flexible work arrangements. Although additional workers have returned to in-person work since March 2020, many employers have delayed or canceled plans for workers to return to offices as COVID-19 infections periodically surge and new variants arise. A significant portion of workers report incurring teleworking expenses, and employer policies to subsidize these expenses continue to evolve in response to the increased prevalence of teleworking.

State Fiscal Effect: The bill alters the existing commuter benefit income tax credit by (1) extending eligibility to certain employer-funded programs and (2) limiting to \$1.0 million the maximum amount of tax credits MDOT may award in each fiscal year.

As a result, general fund revenues may decrease by about \$400,000 annually beginning in fiscal 2023 as a result of additional tax credits claimed against the personal and corporate income tax. This estimate assumes (1) a similar amount of tax credits would have been claimed under current law as in recent years; (2) the maximum amount of authorized credits under the bill is awarded; and (3) additional tax credits are claimed against the personal income tax.

TTF and HEIF revenues will decrease beginning in fiscal 2023 to the extent additional tax credits are claimed against the corporate income tax.

A portion of TTF revenues is used to provide capital transportation grants to local governments. Thus, any decrease in TTF revenues from reduced corporate income tax revenues results in a 13.5% decrease in TTF expenditures to local governments (9.6% beginning in fiscal 2025). Accordingly, TTF expenditures decrease beginning in fiscal 2023; however, the impact is not expected to be significant.

Local Revenues: Local governments receive a portion of corporate income tax revenues as local highway user revenues through capital transportation grants. Local highway user revenues decrease beginning in fiscal 2023.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2022
rh/jrb Third Reader - March 19, 2022
Revised - Amendment(s) - March 19, 2022
Revised - Budget Information - July 28, 2022

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Tax Credits – Employer–Provided Commuter Benefits – Expansion and Administration

BILL NUMBER: SB 210

PREPARED BY: Maryland Department of Transportation
(Dept./Agency)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The tax credit is available for any Maryland business regardless of size who provide certain employee commuter benefits. Businesses who currently participate have shared that the tax credit has helped them to retain and attract top talent, reduce employee turnover and help to improve their business bottom line.